

CLAIMS: THE CASES OF CHRISTOFFER HANNEVIG AND GEORGE R. JONES

Convention signed at Washington March 28, 1940

Senate advice and consent to ratification April 30, 1948

Ratified by the President of the United States June 29, 1948

Ratified by Norway October 1, 1948

Ratifications exchanged at Washington November 9, 1948

Entered into force November 9, 1948

Proclaimed by the President of the United States November 22, 1948

Terminated April 8, 1959¹

62 Stat. 1798; Treaties and Other
International Acts Series 1865

WHEREAS the Government of Norway has made claim against the Government of the United States of America on account of damages alleged to have been sustained by Christoffer Hannevig as the result of acts of the Government of the United States of America, the United States Shipping Board Emergency Fleet Corporation, their officers and agents, in relation to certain properties in the United States of America in which he claims to have had an interest, the validity of which claim is denied by the Government of the United States of America.

WHEREAS the Government of the United States of America has made claim against the Government of Norway on account of alleged denial of justice by the courts of that country in connection with certain litigation involving the rights and interests of the George R. Jones Company, or the late George R. Jones, the validity of which claim is denied by the Government of Norway.

WHEREAS the President of the United States of America and His Majesty the King of Norway, desirous of reaching an amicable agreement for the disposition of such claims and of concluding a convention for that purpose, have named as their plenipotentiaries, that is to say:

The President of the United States of America:

Cordell Hull, Secretary of State of the United States of America; and

¹ Date of decision by the U.S. Court of Claims regarding the Hannevig case that Norway had no valid claim against the United States. (*In re Norway and the United States*, 145 Ct. Cl. 470). As regards the Jones case, the United States Government, by note dated Apr. 16, 1952, informed the Norwegian Government that it would not pursue the claim.

His Majesty the King of Norway:

Wilhelm Munthe Morgenstierne, Envoy Extraordinary and Minister Plenipotentiary of Norway to the United States of America;

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

First. Within one year from the date of the exchange of ratifications of this convention, the Agent for the Government of Norway shall present to the Agent for the Government of the United States of America a Memorial or a statement of claim in which shall be set forth in a clear, categorical and full manner:

- (a) the precise items of alleged loss or damage composing the claim on behalf of Christoffer Hannevig as they are finally conceived to be by the Government of Norway, indicating definitely the amount of each separate item thereof;
- (b) the facts alleged in support of each such item of the claim;
- (c) the principles of law upon which each item of the claim is alleged to rest.

Such Memorial shall be accompanied by all the evidence upon which all items of the claim are made to rest, it being clearly understood that no further evidence may be submitted in support of the claim, either during the stage hereinafter provided for its diplomatic consideration or during its possible adjudication, except such rebuttal evidence as is referred to hereinafter.

Second. Within one year from the date of the receipt by the Agent for the Government of the United States of America of the Memorial of the Government of Norway, he shall present to the Agent for the latter an Answer to the Memorial, in which shall be set out, in a similarly clear, categorical and full manner:

- (a) the defenses of the Government of the United States of America to each item of the claim;
- (b) the facts upon which such defenses rest;
- (c) the principles of law relied upon in each instance.

To such Answer there shall be attached all of the evidence upon which the defense of the case shall be made to rest and no further evidence shall be filed in defense, either during the stage of diplomatic consideration or during a possible adjudication of the claim, except such rebuttal evidence as is referred to hereinafter.

Third. Within six months from the date of the receipt of the Answer of the Government of the United States of America, the Agent for the Government of Norway may, if he so desires, file a Reply to such Answer. In such Reply the Government of Norway, without being allowed to augment

or change any of the bases of the claim as stated in its Memorial, may explain such alleged bases in the light of the evidence filed with the Answer.

There may be filed with the Reply only such evidence as is strictly in rebuttal to evidence filed with the Answer and as does not present any new bases of claim. Any such evidence filed which is not strictly in rebuttal to the evidence filed with the Answer shall be entirely disregarded in deciding the case.

Fourth. Within six months from the date of the receipt of the Reply of the Government of Norway, the Agent for the Government of the United States of America may, if he so desires, file a Counter-Reply, which Counter-Reply shall be strictly limited to answering contentions advanced in the Reply.

There may be filed with the Counter-Reply only such evidence as is strictly in rebuttal to evidence filed with the Reply. Any such evidence filed which is not strictly in rebuttal to the evidence filed with the Reply shall be entirely disregarded in deciding the case. It is understood that no evidence may thereafter be submitted in support of or in defense of the claim, either during the period of its diplomatic consideration or during its possible adjudication.

Fifth. Within six months from the date of the receipt of the Counter-Reply of the Government of the United States of America, the Agent for the Government of Norway shall file with the Agent for the Government of the United States of America a legal Brief in which the Claimant Government shall set forth with clarity and fullness all its contentions with respect to the factual bases of the claim as already developed and the law applicable thereto.

Sixth. Within six months from the date of the receipt of the Brief of the Government of Norway, the Agent for the Government of the United States of America shall file with the Agent for the Government of Norway a Reply Brief in which the Respondent Government shall set forth with clarity and fullness all its contentions with respect to the factual defenses of the claim and the law applicable thereto.

It is declared to be the purpose of this Article to require a full, systematic and fair development of all the facts and law of the case for consideration by the two Governments and, if necessary, by the tribunal or tribunals.

ARTICLE II

In the event that the two Governments shall be unable to agree upon a disposition of the claim, or any portions thereof, within the six months next succeeding the filing of the Reply Brief of the Government of the United States of America, the pleadings thus exchanged shall be referred to the Court of Claims of the United States of America for a decision on the claim or any such unsettled portions thereof, it being clearly understood, however, that in no event shall the issues of the case, either factual or legal, or the contentions of either party, as submitted to diplomatic discussion, be changed in character, or the written record above described augmented in any manner in

the event that the claim shall be so referred to the Court of Claims for adjudication.

It is understood that the provisions for possible reference of the case to the Court of Claims, and for possible appeal to the Supreme Court of the United States of America, as provided in Article V hereof, are subject to authorization by the Congress of the United States of America.

ARTICLE III

The issues to be decided by the Court of Claims shall be those formulated by the pleadings exchanged pursuant to Article I of this convention, or such of those issues as shall not have been previously settled by agreement of the two Governments.

The Court of Claims shall decide such issues in conformity with applicable law, including international law, and shall state fully the reasons for its decision.

ARTICLE IV

As soon as possible after the receipt of the above-mentioned pleadings by the Court of Claims, the Court shall convene for the purpose of hearing such oral arguments by Agents or Counsel or both for each Government as the respective Agents thereof shall desire to present. The conduct of the oral proceedings shall otherwise be under the control of the Court.

ARTICLE V

Within three months following the date of the decision of the Court of Claims (in the event the case shall be referred to the Court for adjudication), either or both Governments may petition the Supreme Court of the United States of America to review the decision and such review shall comprehend either the factual or the legal bases of the case, or both, as may be requested in the petition or petitions.

ARTICLE VI

In the absence of such a petition to the Supreme Court the decision of the Court of Claims shall be accepted by both Governments as a final and binding disposition of the case. In the event of such a petition to the Supreme Court its decision shall be accepted by the two Governments as a final disposition of the case.

ARTICLE VII

In the event that an award is finally rendered in favor of the Government of Norway, no part thereof shall be paid or credited to that Government for any purpose whatsoever until the claims of creditors of Christoffer Hannevig and of his various American corporations shall have been settled by an agreement between the two Governments.

ARTICLE VIII

The language of the pleadings and of the oral proceedings shall be English. Any evidence submitted in any language other than English shall be accompanied by a full and correct translation thereof into the English language.

ARTICLE IX

The two Governments agree that the claim of the Government of the United States of America against the Government of Norway on behalf of the George R. Jones Company, the late George R. Jones, or his heirs, successors or assigns shall be developed for consideration in the following manner:

(a) the pleadings shall be limited to four in number, namely, a Memorial, an Answer, a Brief, and a Reply Brief, and they shall be prepared in the same manner, and filed within the same time limits as the corresponding pleadings provided for in Article I of this convention;

(b) all evidence in support of and in defense of the claim shall be filed with the Memorial and with the Answer in the manner prescribed in Article I, and no further evidence shall be filed except that such evidence may be filed with the Brief as is strictly in rebuttal to that filed with the Answer.

ARTICLE X

If the two Governments shall be unable to agree upon the settlement of the Jones case within the six months next succeeding the date upon which the Reply Brief shall have been filed in that case, the pleadings shall be referred by means of a joint communication of the two Agents, to a sole Arbitrator for decision. The Arbitrator, who shall be agreed upon by the two Governments, shall be a jurist of high reputation, well versed in international law, and shall be a national of neither Norway nor the United States of America.

In the event of the inability of the two Governments to agree upon an Arbitrator within two months from the termination of the period last above mentioned, such Arbitrator shall be selected by His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India.

The place of arbitration of the Jones case (in the event that arbitration becomes necessary) shall not be within the territorial jurisdiction of either of the contracting parties.

In the matter of the conduct of oral proceedings, the Arbitrator shall be bound by the principles of Article IV of this convention. The decision of the Arbitrator, which shall be rendered within three months from the conclusion of oral proceedings, shall be accepted by the two Governments as a final and conclusive disposition of the Jones case.

ARTICLE XI

Each Government shall pay all expenses incident to the preparation and presentation of its own side of each case. All joint expenses, including the honorarium for the Arbitrator, shall be borne by the two Governments in equal proportions.

ARTICLE XII

The periods of time mentioned in Articles I and IX of this convention may be extended by mutual agreement of the two Governments.

ARTICLE XIII

This convention shall be ratified by the High Contracting Parties and shall take effect immediately upon the exchange of ratifications, which shall take place at Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed this convention and have hereunto affixed their seals.

Done in duplicate at Washington, this twenty-eighth day of March, 1940.

CORDELL HULL

[SEAL]

W. MUNTHE MORGENSTIERNE

[SEAL]